

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

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GERARDO AGUILAR TORRES,

Petitioner,

vs.

YANKTON FPC, WARDEN,

Defendant.

4:21-CV-04055-KES

ORDER

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Pending is the motion for appointment of counsel filed by Gerardo Aguilar Torres. Docket No. 7. There is no recognized constitutional right under the Sixth Amendment for the appointment of counsel in habeas corpus cases. Hoggard v. Purkett, 29 F.3d 469, 471 (8th Cir. 1994). Habeas actions are civil in nature, so the Sixth Amendment right to counsel applicable in criminal proceedings does not apply. Id. The court does, however, have discretion to appoint counsel if the interests of justice so require or if an evidentiary hearing will be held. See 18 U.S.C. § 3006A(a)(2)(B). The court will not appoint counsel at this juncture of the proceedings and accordingly denies the motion. This case is not legally or factually complex and the court is confident movant can present his issues himself at this point. Should an evidentiary hearing become necessary, the court will appoint counsel.

Accordingly, it is hereby

ORDERED that the motion for appointment of counsel (Doc. 7) is denied.

DATED this 9th day of April, 2021.

BY THE COURT:

  
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VERONICA L. DUFFY  
United States Magistrate Judge